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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,274	10/29/2003	Mitsuo Watanabe	1341.1163	2798
21171	7590	09/08/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CAPUTO, LISA M	
			ART UNIT	PAPER NUMBER
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DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/694,274	Applicant(s) WATANABE ET AL.	
	Examiner Lisa M. Caputo	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,9 and 11 is/are rejected.
- 7) ☒ Claim(s) 2,4,6,8,10,12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed 23 June 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1, 3, 5, 7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent No. 6,327,576) in view of Button et al. (U.S. Patent No. 5,786,584, from hereinafter "Button") and Blakley (U.S. Patent Application Publication No. 2003/0204359).

Ogasawara teaches a system and method for managing expiration-dated products utilizing an electronic receipt. Regarding claims 1, 5, 9, and 11, Ogasawara

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teaches a bar code reader and method having an arrangement to communicate with a host apparatus in a POS system (POS terminal 10) that comprises a read unit (bar code scanner 12) that reads a bar code attached to an article, and outputs bar code information corresponding to the read bar code, a term information acquisition unit (store server 14, database 16) that acquires term information included in the bar code information, a term expiration check unit (PLU table fields of database 16 include both expiration date information and freshness period information; in addition, in the home environment, the electronic receipt retrieval and processing for expiration date management is preferably performed by a home terminal unit 24) that checks whether the term of the article has expired based on the term information, and a notification unit (electronic receipt 18 employed as a conventional paper receipt or IC card, and display screen 60) that notifies that the term of the article has expired upon determination by the term expiration check unit that the term of the article has expired (see Figure 1, col 3 line 22 to col 7 line 46). In addition, Ogasawara teaches that an item information database need not be hosted on a platform server but might be stored locally at each checkout station or POS terminal (see col 8, lines 5-20). It is well known that a barcode reader is a main component of a checkout station or POS terminal.

Regarding claims 1, 5, 9, and 11, Ogasawara fails to teach that the barcode reader itself contains the equipment to be able to utilize the term information acquisition unit, term expiration check unit, and notification unit in addition to a read unit that reads the barcode.

Button teaches a vial and cartridge reading device. Button teaches that a scanner 66 reads a bar code 53 on a medicine vial. The signal 80 outputted from the scanner 66 is transmitted to the microcomputer 59 which compares the signal to stored patterns and the microcomputer outputs a speech output signal 82 to the speaker 72 to broadcast an audio message of what is in the medicine vial (see Figure 6, col 7 line 60 to col 8 line 20). Hence, Button teaches that a barcode is scanned locally and is able to discern information about a certain product to display, which is applicable to being able to read term expiration data.

In view of the teaching of Button, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a database in the memory of a barcode scanner so that all of the information is conveniently located and does not have to be obtained by accessing a host terminal, which may not be feasible if the transmission units are down. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara because Ogasawara already teaches a barcode reader that is able to read information from a barcode that contains the expiration and freshness information without having to access a remote system and by using the teaching of Button, it is shown that one can indeed have a self-standing barcode reading system with all information received at the local apparatus.

Further regarding claims 1, 5, 9, and 11, although Ogasawara as modified by Button teaches that an expiration date of a product is scanned and checked, the references fail to specifically teach that the term expiration unit specifically calculates whether the term of the article has been expired based on term information.

Blakley teaches a system to determine the expiration of a pharmaceutical expiration date. Blakley teaches a metered dose inhaler (MDI) 10 that includes a programmable electronic expiration data determining unit 12. The expiration date determining unit 12 is operable to monitor and measure the actual temperature of a medication over time, to accumulate and store the temperature and time data and to integrate the temperature and time data to calculate an "expiration" date of the medication. It will be appreciated that in some cases the temperature measured by temperature sensor 42 will be an approximation of the actual temperature of the pharmaceutical. As used herein, the "expiration date" is a real date or event, calculated based on integration of temperature and time data and corresponding to a potency condition of the medication. The expiration date is an event that informs the patient that the monitored medication should not be consumed or otherwise used because the potency of the medication is determined to be insufficient, or for some other conditional reason. Expiration date information may be displayed on display 38 (see Figure 1, paragraph 27). Further, Blakley teaches that a barcode 74 printed on the label of the container includes information identifying the specific pharmaceutical medicine, including information corresponding to data entered in prescription data ID 56 (see Figure 7, paragraphs 34-36). Hence, Blakley teaches the use of time data to calculate an expiration date of a product wherein the calculation is done within a stand-alone device.

In view of the teaching of Blakley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Blakley to

Ogasawara and Button because the system of Blakley shows that a stand-alone medical device has the capability to be able to calculate the expiration date of a certain product. This is applicable to the instant application because the stand-alone barcode reader as taught by Ogasawara and Button would be improved by having the expiration date calculated within the device itself. Hence, Ogasawara and Button have the base teaching of a barcode reader to scan a barcode and check whether the expiration date has passed, which inherently includes a calculation, while Blakley specifically teaches that an expiration date is calculated based on time data.

Regarding claims 3 and 7, Ogasawara teaches the use of a transmission unit that transmits the bar code information to the host apparatus upon determination that the term of the article has expired (the bar code information scanned from each particular item is transmitted to a store platform computer 14) (see Figure 1, col 3).

Allowable Subject Matter

4. Claims 2, 4, 6, 8, 10, and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The best prior art of record fails to teach that the term information data is set by giving consideration to time error, the calculating step comprises setting a length of time as time error information, and further, that time setting barcodes are used.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3, 5, 7, 9, and 11 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments, see response, filed 23 June 2005, with respect to claims 2, 4, 6, 8, 10, and 12-13 have been fully considered and are persuasive. The rejection of these claims has been withdrawn and they are indicated to contain allowable subject matter.

8. Examiner appreciates applicant's arguments that the prior art does not specifically teach the newly amended limitation of the term expiration check unit which specifically calculates whether the term of the article has expired and has provided additional prior art in the form of Blakley to overcome this limitation.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (571) 273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**lisa.caputo@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LMC

September 3, 2005



DIANE I. LEE
PRIMARY EXAMINER